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ADAMS & WILKS Suite 1231 17 Battery Place New York, NY 10004			BARRY, CHESTER T	
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			1724	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,689

Applicant(s)

FREJBORG ET AL.

Examiner

Chester T. Barry

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/12/03, 2/17/04, 2/24/04, 2/18/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Invention Non-elected in 07/573,839

The subject matter for which reissue of 5,200,072 is now sought is not the same invention as any invention that was non-elected in response to a requirement for restriction under 35 U.S.C. Sec. 121 in application 07/573,839, now USP 5,200,072.

Minor Claim Informalities

Objection is made to Claim 1 because the conjunction "and" immediately following the second semi-colon should be relocated to immediately after the last semi-colon of the claim.

Objection is made to Claim 10 because the conjunction "and" should immediately follow the third indented paragraph of the claim, i.e., immediately after, "structurally supports said screening medium;"

Objection is made to Claim 12 because "extent" is misspelled as "extend."

Correction is required.

Manner of Making Amendments in Reissue Applications

Claims 12-15

Objection is made to claims 12 –15 under 37 CFR 1.173(b)(2) and (d)(1-2) for failing to properly indicate the status of the claim using the term "amended" rather than "currently amended" as in 37 CFR 1.121, and for failing to underline added matter and enclose deleted matter in *bracket*, respectively. Strike-through is not a permissible

alternative to brackets. In pertinent part, to have complied with 37 CFR 1.173, claim 12 would have appeared as,

12. (Amended) A screen [cylinder] plate according to claim 11 wherein said slots have an exten[t]d sufficient to span . . .

To the extent that owner did not intend to change the claim 12-recited word “extent” to “extend,” applicants would have filed claim 12 as:

12. (Twice amended) A screen [cylinder] plate according to claim 11 wherein said slots have an extent sufficient to span . . .

Similarly, the pertinent portions of claims 13 – 15 would have been presented as:

13. (Twice amended) A screen [cylinder] plate according . . .

14. (Twice amended) A screen [cylinder] plate according . . .

15. (Twice amended) A screen [cylinder] plate according to claim [10] 11 . . .

Claims 24-37

Objection is made to claims 24-37 under 37 CFR 1.173(d)(2) for failing to properly underline the subject matter added to the claims, i.e., the entire text of claims 24 – 37.

Sec. 112, 1st Paragraph, Lack of Written Description

Claims 1 – 9, 26, 28, 29, 31 are rejected, and objection is made to the specification, under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claim 1 recites subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that

the inventors, at the time the application was filed, had possession of the claimed invention. Claim 1 recites a plurality of axially spaced "projections." Although applicants' original disclosure adequately describes a plurality of ridges or bands 24 separated in the axial direction one from the other, it does not describe a plurality of axially spaced "projections." A projection, e.g., a tetrahedron or convex hemisphere, is broader in scope than a ridge or band. A ridge or band is a specie of the genus projections. A ridge or band is longer in a first dimension than in a second dimension that is at right angles to the first dimension whereas this feature is not necessarily so for a "projection." Claims 2 – 9, 28 are rejected on this basis as well for they depend from claim 1 and none limits the "projections" to "ridges."

The original disclosure describes that the width of the recesses is "many times" the width of the ridges or bands 24. Please see col. 2 line 44, for example. Accordingly, the original disclosure does not support Claim 8's limitation that the recesses extend axially "at least plural times" the axial extent of the projections [i.e., ridges]. "At least plural times" is as little as two, whereas "many times" is more than two.¹

The application fails to provide an adequate written description of the concept of the size and number of backing plate openings being "consistent" with the backing plate. Accordingly, claim 26 is rejected under sec. 112, 1st parag.

The disclosure fails to provide an adequate written description of claim 28. With respect to the first preferred embodiment, i.e., the embodiment in which the recesses

defining ridges or bands form a part of the screening plate, it appears there is no discussion in the application of whether the so called "projections" (i.e., ridges, bands) provide insubstantial or substantial structural support to the screening plate. With respect to the second preferred embodiment, i.e., the embodiment in which the recesses-defining ridges or bands form a part of the backing plate, it appears that the ridges or bands do indeed provide substantial structural support to the screening plate because they form a part of the screen plate-supporting backing plate. Please see col 10 lines 15 – 25 should this position be traversed.

Per claim 29, the disclosure fails to describe the screening medium and the backing plate being "configured" such that 85 – 95% of the screen cylinder axial length is utilized. Rather, the disclosure states that due to the formation of continuous slots on the inflow side of the screening plate substantially corresponding to the axial extent of the cylinder, the screen cylinder *of the first preferred embodiment* (col 8 line 83, col 10 line 26-27) of the invention is able to utilize 85 – 95% of the entire length of the screen cylinder.

Per claim 31, the disclosure provides no descriptive support for a "locking plate."

Although the original disclosure provides a written description of the species rivets and screws, it fails to describe the broader genus of "mechanical fasteners" for securing the screen plate and "locking [sic, backing?] plate" together (see col 9 line 40). Bolts, clamps, and nails are examples of mechanical fasteners which, along with "mechanical fasteners," are not described in the specification. Accordingly, claims 31

¹ Amending claim 8 by changing "at least plural times" to "many times" may result in rejection of the claim

and 37 are rejected for failure of the disclosure to provide an adequate written description of the genus, "mechanical fasteners."

Objection is made to the specification for failing to describe the claimed subject matter rejected above.

35 U.S.C. 112, second paragraph

Claims 3 – 5, 12 – 15, 18 – 23, 25 – 29, 31, 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Claim 3, directed to a product, requires that the "means for releasably connecting [the] screening medium and [the] backing plate one to the other" includes "welding [the] screening medium and [the] backing plate to one another." The scope of claim 3 is indefinite because the act of "welding" is not "structure" for performing the "releasably connecting" function defined by the means-plus-function clause, i.e., by the clause, "means for releasably connecting [the] screening medium and [the] backing plate one to the other." This basis for rejection applies also to claim 33.

Similarly, the scope of claim 4 and of claim 5 is indefinite because the act of gluing or the act of soldering, respectively, is not "structure" for performing the "releasably connecting" function defined by the same means-plus-function clause. This basis for rejection applies also to claims 34 – 35.

Per claims 12 – 15, each of these claims now includes the limitations of claim 11. Claim 11 requires that the screening medium and the backing plate of the "screen plate

according to claim 10” be cylindrical. Therefore, the invention of claims 12 - 15 is more properly and less confusingly recited as a “screen cylinder.” Viewed only in the light of the specification, referring to the invention of claims 12 – 15 as a “screen plate” would not ordinarily render the scope of the claims indefinite because 1) a screen cylinder is one of the two disclosed species of the genus of “screen plates,”² and 2) applicants may act as their own lexicographer and use their specification as a dictionary as an aid in construing claim-recited terms such as “screen plate.” However, in this reissue application, applicants seek to change the preamble language of claims 12 – 15 from “screen cylinder” to “screen plates” when in fact the invention of claims 12 – 15 is necessarily limited to a screen cylinder. Reverting to “screen plates” at this point in prosecution when “screen cylinder” is clearer renders the scope of claims 12 – 15 unreasonably imprecise in scope. Amending “plate” to “cylinder” in the preambles of claims 12 – 15 would overcome this rejection.

Claim 18 does not appear to require that the screening plate be made from metal, as suggested by comparison with either claim 19 or claim 21, for example. Claim 23 recites the step of forming the screening plate of claim 18 into a cylindrical shape to form a “metal” screen cylinder. In view of these two claims and the disclosure as a whole, it is unclear whether the screening plate of claim 18 is implicitly made of metal, or whether the formation step recited in claim 23 in some manner not only forms the screening plate into the shape of a cylinder, but also transforms the screening plate into

² The other specie disclosed in this application is a “flat screen plat[e]” (see col. 1 line 7-8).

one made from metal. Claims 19 – 22 are rejected because they do not clarify the ambiguity in claim 18 and they depend from it.

In claim 18, the expression “inclined relative to the longitudinal extent of the grooves formed in step (a),” cannot be understood. The disclosure supports a cylindrical screen in which grooves extend in the axial direction and recesses extend in the circumferential direction thereby establishing that the recesses and grooves extend in directions perpendicular to one another, albeit offset from one another in the case of at least the second preferred embodiment. The application as a whole does not support any other angle. It is unclear whether “inclined relative to” in this case means “not in the same direction as” (for which there is no Sec. 112, 1st parag. support), “perpendicular to” (for which there is Sec. 112, 1st parag. support), or some other meaning (for which there is no Sec. 112, 1st parag. support).³ Claims 19 – 23 are rejected on this basis as well.

The scope of claim 25 is indefinite because the act of “shrink-fitting” is not “structure” for performing the “releasably connecting” function defined by the means-plus-function clause recited in claim 2.

³ Applicants' disclosure enables making screening cylinders of the first preferred embodiment having grooves in a longitudinal direction and reverse-side recesses extending in a circumferential direction and flat screening plates having grooves in a first direction and reverse-side recesses extending in a generally perpendicular direction. Applicants' disclosure also enables making screens of the second preferred embodiment having grooves in a longitudinal direction of the screening cylinder and backing plate recesses extending in a circumferential direction. Applicants' disclosure also enables making screens of the second preferred embodiment having grooves in a first direction of the flat screening plate and recesses in the backing plate extending in a second direction that is generally perpendicular to the first direction.

Per claim 26, the expression “a size and number of the plurality of openings” cannot be understood. It is suggested that the phrase be changed to, “the size and number of openings.”

Per claim 26, it is unreasonably ambiguous what “consistent with” means in the phrase, “a size and number of the plurality of openings in said backing plate are consistent with said backing plate structurally supporting said screening medium.” “Consistent” in the sense of “substantially uniformly distributed over the entire backing plate”? Or was applicant / owner referring to the size and number of openings on the **screening plate** with the size and number of openings on the **backing plate**? Or perhaps “consistent with” means that the size and number of the backing plate openings are not so large as to render the backing plate incapable of structurally supporting the screening medium? If so, then claims 1 and 26 are rendered indefinite by the language of claim 26 for under the doctrine of claim differentiation that language might have the effect of removing the “whereby said backing plate structurally supports said screening medium” right out of claim 1. See the corresponding rejection of claim 1 under Sec. 251 for improper broadening.

Claim 27 is rejected. The idea of “a full axial length” is not understood. Was “the full axial length” intended?

Per claim 28, neither claim 9 nor 1 provides antecedent basis for “screening plate.” The term appearing in claim 1 is “screening medium.”

Per claim 29, in light of the disclosure at col 10 lines 25-31, it is not clear how the so-called “configuration” of the cylindrical screen medium and the cylindrical backing

plate accounts for the 85 – 95% utilization rate. In short, it's unclear that "configured" means continuous slots extending substantially the entire length of the inflow side of the screening cylinder.

Per claim 31, claim 1 provides no antecedent basis for "locking plate."

35 U.S.C. Sec. 251

Impermissible Broadening

Claims 1 – 9 are rejected under 35 USC Sec. 251 for broadening the scope of the patent, specifically patent claim 1, in this reissue application filed more than two years after patent 5,200,072 originally issued.

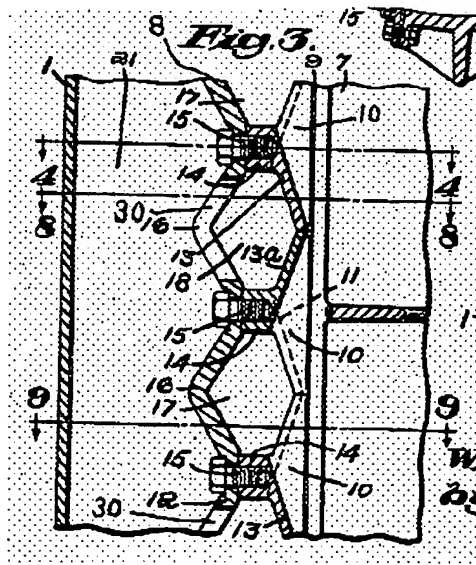
Claim 26 appears to be an attempt at "broadening by narrowing." Specifically, Claim 26 states that the size and number of openings in the backing plate is "consistent" with the backing plate "structurally supporting" the screening medium. Under the doctrine of claim differentiation and Sec. 112, fourth paragraph, claim 26 may have the effect of conferring upon independent claim 1 (from which claim 26 depends) a claim construction that encompasses a backing plate having openings the size and number of which is "inconsistent" with the backing plate "structurally supporting" the screening medium. That is, the size and number of the backing plate openings are such that the backing plate of claim 1 does not necessarily "structurally support" the screening medium. The effect of this new claim 26-induced claim construction of claim 1 is a broadening of the scope of claim 1 and of the patent. Insofar as claim 26 was filed in this reissue application in 2003 more than two years after the patent (5,200,072) issued

in 1990, such broadening is impermissible under Sec. 251. This rejection may be overcome by canceling claim 26.

Art Rejections Based on 35 U.S.C. Sec. 102

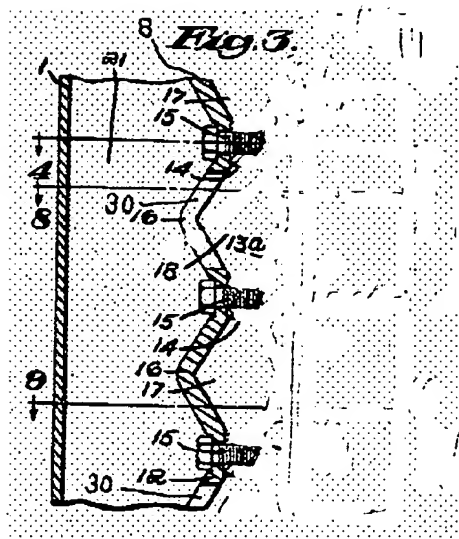
Mathewson

Claims 1, 2, 6, 8 – 17, 24, 26, 29, 31, 32, 36, 37 are rejected under 35 USC Sec. 102(b) as anticipated by Mathewson. USP 2450838 to Mathewson describes a screen cylinder comprising two concentric members secured together by screws 15. Fig 3 is shown below.



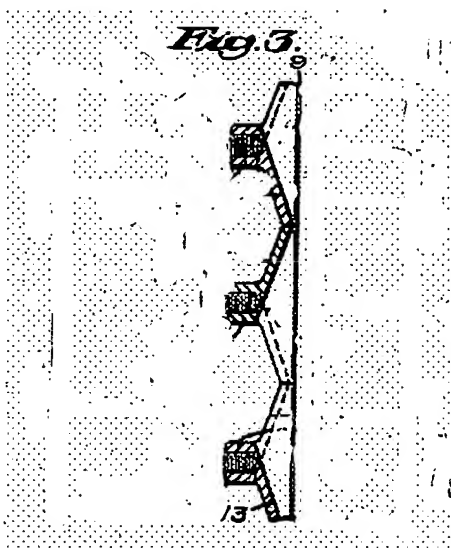
With reference to the examiner's modified version of Mathewson's Fig. 3 reproduced at left below, Applicants' backing plate reads on Mathewson's disclosure of structures labeled 1, 21, 8, 30, 16, 12. With reference to the examiner's modified

version of Mathewson's Fig. 3 reproduced at right below, Applicants' screening medium reads on Mathewson's disclosure of structures labeled 9, 10, 11, 13, 14, 13a.



STRUCTURE
UPON WHICH
"BACKING PLATE"
READS

(CTB
10/27/05)

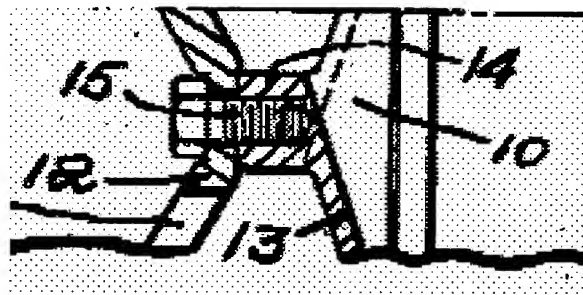


STRUCTURE UPON
WHICH
"SCREENING MEDIUM"
OR
"SCREEN PLATE"
READS

(CTB
10/27/05)

Insofar as the backing plate (above left) is mechanically fastened via screws to the screening medium (above right), the former structurally supports the latter. The backing plate has a plurality of openings 24, 30. The screening medium has a plurality of openings through clearance space 9 through which only accepts pass. The accepts continues through openings 11 in the radially outward direction into circumferential chamber 18. From there, the accepts flows through backing plate openings 30 before being discharged from the apparatus through outlet 5.

The opposing surfaces of screening member and the backing members engage each other in the vicinity of screws 15, e.g., where 12 meets 14 as the exploded portion of Fig 3 shows:



Per claims 1, 6, 9, 16, and 17 both the screening medium⁴ 13, 13a, 14 and the backing plate⁵ 8, 16, 12 have a plurality of circumferentially extending recesses formed in its opposing surface and opening at the opposing surface of the other of said screening medium and said backing plate at the interface thereof establishing communication between the respective openings of said screening medium and said backing plate.

⁴ Shown in Fig. 3 above reference numeral 13a.

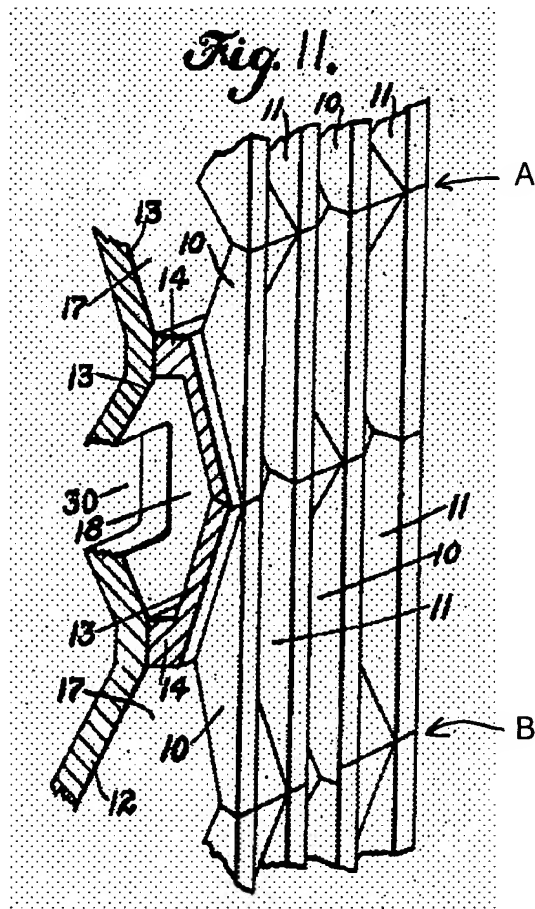
⁵ Shown in Fig. 3 to the right of each instance of reference numeral 16.

Circumferential annular chamber 18 is bounded above and below by radially outwardly projecting portions of the axially extending walls which defined grooves 10 and 11. The maximum extent to which these walls project can be found in the vicinity of the screws 15. Accordingly, Mathewson describes a plurality of axially spaced projections spaced one from the other in the axial direction defining recesses and projecting radially from one of the screening medium and the backing plate at the interface between the two.

The openings 11 in the screening medium are elongated and extend in a generally axial direction substantially normal to the circumferential extent of the annular chambers 18 (i.e., the structure in Mathewson on which applicants' "recesses" read).

Per claim 2, the structures on which applicants' screening member and backing plate read are releasably connected by mechanical fasteners (screws 15).

Per claims 8 and 12, the recesses, i.e., annular chambers 18, extend from the uppermost extent of one screw 15 to the lowermost extent of the next screw 15 thereabove. The width of each "projection," however, is only slightly more than the maximum width of the screw itself. See Fig. 3. It appears that the ratio of the width of the recess to the width of the screw is at least two. The openings 11 appear to span from point A to point B in the examiner's modified version of Mathewson's Fig 11 below. The claim-recited "recesses" also read on annular chambers 17. Accordingly, openings 11 appear to have an extent sufficient to span the distance of two recesses in the axial direction.



Per claim 10, the claim-recited contoured portions read on the radially-inwardly facing sloping surface found in each opening 11.

Per claims 13 - 14, the pulp flows through a reduced slot in registry with the contoured portion and through an opening to deliver pulp to the annular chamber 18.

Per claim 29, it appears from Mathewson Fig. 1 that the screen cylinder has an axial length such that the screen medium and the backing plate extends is "configured," i.e., has a shape and arrangement, such that 85% - 95% of the axial length is utilized.

Claim 32 recites a claim element in "means plus function" format. The specification describes *inter alia* "screws" at col 9 line 40. Mathewson meets this limitation by describing screws 15.

Gillespie

Claims 1-3, 8 – 12, 15, 17, 26 – 29, 32, 33 are rejected under 35 USC Sec.

102(b) as anticipated by USP 4276265 to Gillespie.

Although Gillespie is not directed to a pulp fiber sorting application, applicants' claimed invention is merely intended for use in a pulp process. Structurally, applicant's claimed screen device is indistinguishable from Gillespie's screen.

Gillespie describes a screen cylinder comprising:

- a generally cylindrical screening medium (plurality of wires 28) having a plurality of openings 32 between the wires;

- a generally cylindrical structural backing plate made of a plurality of channel-shaped members 30 for structurally supporting the screening medium and having a plurality of slot openings 34 therethrough;

- the screening medium and the structural backing plate lying concentrically one within the other and having respective opposed surfaces in engagement (i.e., through direct physical contact) with one another at an interface therebetween whereby the backing plate structurally supports the screening medium;

- the backing plate having a plurality of circumferentially extending recesses (i.e., the channels of the channel-shaped members) formed in its opposing surface and opening at the opposing surface of the screening medium at the interface thereof establishing communication between the screen medium openings (i.e., the axial openings between the wires 28) and the backing plate openings 34;

- a plurality of axially spaced projections (the radially extending upturned edge of each channel-shaped member) spaced one from the other in the axial direction defining the recesses and projecting radially from the backing plate at the interface; and

- the openings in the screening medium being elongated and extending in a generally axial direction substantially normal to the circumferential extent of the recesses.

Per claims 2-3, welds are described at at least col 3 line 34.

Per claim 10, bear in mind that gas can flow from the axial centerline, through the inner cylinder, and then into the catalyst bed. Accordingly, gas faces the "contoured profile" (col 2 line 45; "13° taper angle") side of the wires 38 before passing through slots 34. Accordingly, Gillespie describes a screen plate comprising:

a screening medium 28 having a plurality of slots 32 therethrough and extending generally parallel to one another, the slots having contoured portions ("13° taper angle") on an inflow side of the screening medium;

a structural backing plate (assemblage of channel-shaped members 30) having a plurality of openings 34 therethrough;

the screening medium 28 and the structural backing plate 30 lying in registration one with the other and having respective opposed surfaces in engagement with one another at an interface therebetween whereby the backing plate structurally supports the screening medium;

the backing plate having a plurality of recesses formed in its opposing surface (see discussion above) and opening at the opposite surface of the screening medium at the interface thereof establishing communication between the openings 34 of the backing plate and the slots 32 of said screening medium;

whereby pulp, if present, could flow through the slots, the recesses and the openings 34 in the backing plate. "Sequentially," as recited in claim 10, does not require that the flow proceed first to the screen slots, then the recesses, then the openings 34. It is sufficient to meet the "sequentially" limitation should flow be capable of proceeding according to any sequence in which all three of the elements slots, recesses, and openings are contacted by the fluid.

Per claim 29, it appears that less than 15% of the area of the parallel wire slots 32 is blocked by the means by which the ridges of the channel-shaped members.

Art Rejections Based on 35 U.S.C. Sec. 103(a)

Claim 7

Claim 7 is rejected under 35 USC Sec. 103(a) as obvious over Mathewson in view of USP 4958843.

Mathewson does not describe using rivets to releasably join the structures held together by screws 15. USP 4958843 discloses the following:

Preferably, the side rails 40,41,44 and 48 are all constructed with wood or metal staves 43 held together by the pegs 42, which are firmly attached to each stave 43 by rivets, screws or equivalent means to form rigid side rails for converting the flat bed 20 into a haulage box. In the toy vehicle 10 shown in FIG. 1, a front rail 46 is attached to the two side rails 40 to form a single, three-sided unit held in place by the pegs 42 inserted in the brackets 22 on the sides of bed 20. A rigid vertical handle bar 90, as shown in FIG. 2, can be bolted to the back of the bed 20 for use by a child riding on a rear platform 80, which is described in detail below.

(Emphasis added).

It would have been obvious to have used a structural equivalent of a threaded screw, such as the rivets described by '843, in place of the screws taught by Mathewson given recognition in the mechanical arts that screws and rivets are equivalent forms of mechanical fasteners.

Claim 30

Claim 30 is rejected under 35 USC Sec. 103(a) as obvious over Mathewson as applied to claim 1 above, further in view of USP 4,986,900 to Mason or over applicants' admission.

Mason states at column 8:

35 OF THE ADEQUATE EXTENT OF THE IDENTICAL ELEMENTS OF SUCH.
It will also be appreciated that the elements are readily and easily formed of a highly wear-resistant ceramic material. Thus, the resistance to wear is substantially increased in comparison with prior screen
40 cylinders formed of steel and even those having hardened surfaces.

Accordingly, screen cylinders made from hardened steel were known. The examiner takes Official notice of the fact that heat treating steel is a notoriously well known method for hardening steel. It would have been obvious to have heat-treated Mathewson's screen cylinder in order to harden it to render it more wear resistant, as suggested by the nature of the fiber-bearing pulp filtration problem through clearance space 9 and by Mason and the Officially-noticed state of the art.

Applicants state in their specification at column 2:

5 Additionally, screen plates and cylinders used in the pulp and paper industry are subjected to high wear rates, even with hardened surface treatments, and are exposed to corrosive chemicals. In fact, it is not uncommon for plates of this type to completely wear out within weeks of their initial use, necessitating replacement with wholly new plates. These plates and cylinders
10 are quite expensive.

This passage is taken as an applicant admission that hardened surface-treated screen plates were used in the pulp and paper industry in this country before the invention was made. As above, the examiner takes Official notice of the fact that heat treating steel is a notoriously well known method for hardening steel. It would have been obvious to have heat-treated Mathewson's screen cylinder in order to harden it to render it more wear resistant, as suggested by the nature of the fiber-bearing pulp filtration problem through clearance space 9 and by Applicants' admission as to the state of the art.

Claims 3 – 5, 33 – 35

Claims 3 - 5 and claims 33 – 35 are rejected under 35 USC Sec. 103(a) as obvious over Mathewson as applied to claim 1 and claim 32 above, respectively, further in view of any one of 4257419, 4206574, 4146296, 3768648, and 3709186.

Each of 4257419,⁶ 4206574,⁷ 4146296,⁸ 3768648,⁹ and 3709186¹⁰ teaches the functional equivalence of screws, welding, soldering, and gluing as techniques for joining parts together. It would have been obvious to the person having ordinary skill in the art to have substituted any one of welding, soldering, and gluing for Mathewson's

⁶ "The hemorrhoid ligator 1 of FIG. 1 is preferably of stainless steel or inert plastic . . . and has a handle 2 on which there is fixedly mounted a tubular housing 3. Into the rear end of the housing 3 is fixedly attached in a press-fit a hose coupling 4 . . . The coupling is fixedly attached to the housing, and if a press-fit be inadequate, soldering, welding, adhesive bonding, or mechanical means such as screws or a bayonet joint can be used instead." (emphasis added)

⁷ "Handle 24 as shown in FIGS. 2 and 3 which may also be manufactured from any suitable rigid material such as wood, plastic or metal provides a means for grasping the lapping block, and is secured to the upper surface 26 of plate 18 by any suitable means such as by screws 28, adhesive, welding, soldering, or the like" (emphasis added).

⁸ "The enlargement housing 31 may have any cross sectional shape; such as, square, octagonal, hexagonal, circular, or the like. As illustrated, it is circular in cross sectional shape so as to form a right circular cylinder. It is joined to the small tubular housing 29 by a collar 43 which may be affixed by set screws, or by bonding, either thermally (welding, soldering) or chemically (by glue or other adhesives)" (emphasis added).

⁹ "The stacked corrugated sheets are conveniently fixed in place by any suitable means such as a suitable adhesive or tape in the case of plastic extrusions or by welding or soldering or mechanical fasteners in the case of metal" (emphasis added).

¹⁰ "The member 16 is preferably provided with a boring 18a in the after end, fitting the propeller shaft casing 14. The casing may be fixed by welding, if welding is possible, by soldering, gluing, threading, optionally in combination with stopping screws; or by providing a clamping sleeve on the after end of the member 16. It will also be possible to attach the casing to the member 16 with the use of flanges and bolts and nuts. Other methods will be obvious" (emphasis added).

screws in light of disclosure in these prior art references of recognition in the art of the functional equivalence of these joining methods.

Miscellanea

PTO records indicate that the 11.5 yr maintenance fee has been paid. This patent appears due to expire on April 6, 2010. No reissue of USP 5,200,072 can issue after then.

Litigation

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b),¹¹ to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5,200,072 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

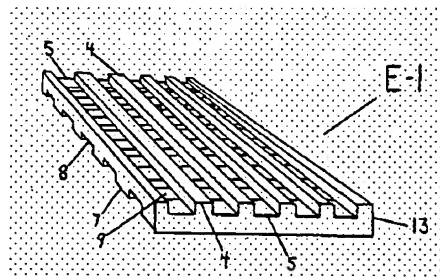
¹¹ 37 CFR 1.178(b): "In any reissue application before the Office, the applicant must call to the attention of the Office any prior or concurrent proceedings in which the patent (for which reissue is requested) is or was involved, such as interferences, reissues, reexaminations, or litigations and the results of such proceedings (see also § 1.173(a)(1))."

Surrender of Patent

Assignee's offer to surrender the patent has been received. No reissue patent will issue until the ribboned patent, or a statement addressing the loss or inaccessibility of the ribboned patent, has been received. See MPEP Sec. 1416.

Art Cited of Interest

USP 4832834 to Baird is cited for manufacture of an elastomeric flat screen plate via cutting longitudinal, parallel recesses on one side first, followed by cutting transverse, parallel recesses on the reverse side. The screen E-1 is mechanically fastened to a backing plate U-1 ("shaker box"). The backing plate or shaker box, does not appear to have openings therein.

Declaration filed under 37 CFR 1.131

The sufficiency of the declaration was not addressed. It shall not be considered unless and until intervening art is applied.

USP 5064537 and 4017387 are cited of interest.

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

MPEP 1414 states that

In identifying the error, it is sufficient that the reissue oath/declaration identify a single word, phrase, or expression in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid. The corresponding corrective action which has been taken to correct the original patent need not be identified in the oath/declaration. If the initial reissue oath/declaration "states at least one error" in the original patent, and, *in addition*, recites the specific corrective action taken in the reissue application, the oath/declaration would be considered acceptable, even though the corrective action statement is not required.

(MPEP Sec. 1414 at page 32 left column). Moreover,

CTB

~~U.S. 894 (1987)~~. Any error in the claims must be identified by reference to the specific claim(s) and the specific claim language wherein lies the error.

(MPEP Sec. 1414 at page 32 left column).

In this case, applicant states in the reissue oath:

Certain further features of the invention could and should have been claimed at least in dependent claims to clarify the scope of the claims and further distinguish the invention over the prior art.

Applicant has not identified in the oath or declaration a single word, phrase or expression in an original (patented) claim or how that word, phrase or expression

renders the original patent wholly or partly inoperative or invalid. That is, applicant has not identified by reference to the specific claims or claims the specific claim language (or lack thereof) wherein lies the error.

CHESTERT. BARRY
PRIMARY EXAMINER

571-272-1152

A handwritten signature in black ink, appearing to read "Chest. Barry", with a long, sweeping horizontal stroke extending to the right.